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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/648,918

08/27/2003

Katsuhiko Miya

P/1250-258

5086

2352 7590 12/12/2008
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EXAMINER

MACARTHUR, SYLVIA

ART UNIT

PAPER NUMBER

1792

MAIL DATE

DELIVERY MODE

12/12/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.		Applicant(s)	
	10/648,918		MIYA ET AL.	
	Examiner		Art Unit	
	Sylvia R. MacArthur		1792	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 February 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-10,19,21 and 22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-10,19,21 and 22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 March 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>8/20/2008</u> . | 6) <input type="checkbox"/> Other: _____. |

Response to Arguments

1. Applicant's arguments with respect to claims 1, 3-10, 19, 21, and 22 have been considered but are moot in view of the new ground(s) of rejection. Applicant has introduced new prior art in the IDS of 8/20/2008

Double Patenting

2. Claims 1,3-10, 19, 21, and 22 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-7 of copending Application No. 11/130,585, using Miya (US 2005/0276921) in view of Miya (JP 11-274135).

3. Regarding claims 1 and 22: Although the conflicting claims are not identical, they are not patentably distinct from each other because the copending application claims a rotary member(substrate holding/rotating element) that is rotatably driven by the rotating element, a platy member (atmosphere blocking plate) has a gas ejection outlet, and a top side processing liquid supplier. The claimed apparatus of the co-pending application fails to teach where the gas ejection outlet (a gas discharge port) is located and further fails to teach an outer gas port.

4. The prior art of Miya (JP 411274135A) teaches an atmosphere shielding member 2 that that is rotatably driven and provided with two gas discharge ports 43,44 (Fig.6 wherein inner port 43 is eccentric (or off center) as related to the center 3 of the plate and an outer gas port 44 enclosed the inner port 43. The motivation to combine the teachings of the co-pending application and the prior art by Miya is that the combined teachings allow for the introduction of several fluids that can mix at the point of use (the surface of the substrate). According to the English Abstract of Miya the apparatus further allows for a reduction in drying time and the generation of water mark. Thus, it would have been obvious for one of ordinary skill in the art at

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the time of the claimed invention to combine the teachings of the co-pending application and prior art of Miya.

5. Regarding claims 4 and 8: This is a matter of an intended use as the two ports 43,44 are independently operable and thus capable of allowing for same and/or different start times.

6. Regarding claims 5 and 9: See Fig. 6 Miya where the outer port size is larger than the inner port size and thus meets the claim.

7. Regarding claims 6, 10, and 19: Support element of the co-pending application is interpreted as the support cylinder.

8. Regarding claims 7 and 20: See Fig. 6 of the Miya.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

9. Claims 1, 3-5, 7-9, and 21, and 22 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-8 of copending Application No. 11/154,363, using Miya (US 2006/0021636).

10. Regarding claims 1 and 22: Although the conflicting claims are not identical, they are not patentably distinct from each other because the copending application claims substrate supporting unit (substrate holding/rotating element) that is retractably driven by the rotating element via a rotary driving unit, a blocking element (atmosphere blocking plate) has a gas ejection unit, and a processing liquid supplier, see claims 1 and 2. The claimed apparatus of the co-pending application fails to teach where the gas ejection unit (a gas discharge port) is located and further fails to teach an outer gas port. Note claim 7 does teach plurality of holes in the blocking member.

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11. The prior art of Miya(JP 411274135A) teaches an atmosphere shielding member 2 that that is rotatably driven and provided with two gas discharge ports 43,44 (Fig.6 wherein inner port 43 is eccentric (or off center) as related to the center 3 of the plate and an outer gas port 44 enclosed the inner port 43. The motivation to combine the teachings of the co-pending application and the prior art by Miya is that the combined teachings allow for the introduction of several fluids that can mix at the point of use (the surface of the substrate). According to the English Abstract of Miya the apparatus further allows for a reduction in drying time and the generation of water mark. Thus, it would have been obvious for one of ordinary skill in the art at the time of the claimed invention to combine the teachings of the co-pending application and prior art of Miya.

12. Regarding claims 4 and 8: This is a matter of an intended use as the two ports 43,44 are independently operable and thus capable of allowing for same and/or different start times.

13. Regarding claims 5 and 9: See Fig. 6 Miya where the outer port size is larger than the inner port size and thus meets the claim.

14. This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 102

15. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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16. Claims 1,3-10, 19, 21, and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Kaida Hiromasa et al (JP 7-22361) .

17. Hiromasa et al teaches a coater, see Figures, especially Fig. 10.

18. Regarding claim 1,3, 21, and 22: The substrate holding/rotating element is anticipated by the spin table. the atmosphere blocking plate is anticipated by cover 6.

19. Regarding claims 4 and 8: This is a matter of an intended use as the ports of Hiromasa et al are independently operable and thus capable of allowing for same and/or different start times.

20. Regarding claims 5 and 9: See Fig. 10 where the outer port size is larger than the inner port size and thus meets the claim.

21. Regarding claims 6 ,10, and 19: See Fig. 13

22. Regarding claims 7 and 20: See Fig.10.

23. Claims 1,3-10, 19, 21, and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Kiyose Hiromi (JP 2000-156363).

24. Regarding claim 1,3, 21, and 22: Hiromi teaches a support member 6 (substrate holding/rotating element), an atmosphere blocking plate 12 with nozzles (ports) 28.

25. Regarding claims 4 and 8: This is a matter of an intended use as the ports of Hiromi are independently operable and thus capable of allowing for same and/or different start times.

26. Regarding claims 5 and 9: See Figs. where the outer port size is larger than the inner port size and thus meets the claim.

27. Regarding claims 6 ,7, 10, 19, and 20: See Figs.

28. Applicant's submission of an information disclosure statement under 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p) on 8/20/2008 prompted the new ground(s) of rejection

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presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 609.04(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

29. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sylvia R. MacArthur whose telephone number is 571-272-1438. The examiner can normally be reached on M-Th during the hours of 8 a.m. and 4:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Parviz Hassanzadeh can be reached on 571-272-1435. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

December 7, 2008

/Sylvia R MacArthur/
Primary Examiner, Art Unit 1792